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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN BRUCE RICE,

Defendant and Appellant.

B212554

(Los Angeles County  
Super. Ct. No. A713269)

APPEAL from an order of the Superior Court of Los Angeles County, Ronald S. Coen, Judge. Affirmed.

Patricia J. Ulibarri, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Steven Bruce Rice appeals from the trial court's denial of his petition for a writ of error coram nobis.<sup>1</sup> We affirm the trial court's order.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In an amended felony complaint filed April 7, 1989, appellant, Steven Bruce Rice, was charged with the first degree murder of Aslam Hasham (Pen. Code, § 187, subd. (a)),<sup>2</sup> committed during the crime of robbery (§ 211), while a principal was armed with a firearm (§ 12022, subd. (a)). It was further alleged that Rice committed eight counts of second degree robbery (§ 211), during the commission of one of which he was personally armed with a firearm (§ 12022.5) and during the remainder of which a principal was armed with a firearm (§ 12022, subd. (a)). Finally, it was alleged Rice had committed kidnapping for robbery (§ 209, subd. (b)), during which a principal was armed with a firearm (§ 12022, sub. (a)).

On August 4, 1989 Rice entered into a plea agreement under the terms of which he pleaded guilty to one count of first degree murder, one count of robbery and one count of kidnapping, during each of which a principal was armed with a firearm. Sentencing was set for September 8, 1989.

At proceedings held on September 8, the trial court sentenced Rice to a total term of 31 years to life in prison. For the murder, the trial court imposed a term of 25 years to life plus 1 year because a principal had been armed with a firearm. For the kidnapping,

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<sup>1</sup> Denial of a petition for a writ of error coram nobis is an appealable order. (*People v. Allenthorp* (1966) 64 Cal.2d 679.)

<sup>2</sup> All further statutory references are to the Penal Code unless otherwise indicated.

the court imposed a concurrent term of 25 years to life, with a one-year consecutive enhancement because a principal had been armed with a firearm. A four-year consecutive sentence was imposed for the robbery alleged in count seven of the complaint.

Rice appealed and the judgment was affirmed. Then, on October 1, 2008, Rice, acting in propria persona, filed in the superior court a petition for writ of error coram nobis requesting that the court vacate the judgment and allow him to withdraw his plea. In the petition, Rice asserted that he “mistakenly plead[ed] guilty to the charges alleged in the . . . information because the prosecutor induced him to plead guilty by fraud, fear, and coercion.” Rice indicated the prosecutor and his own counsel told him that if he entered the plea and was “good and [did] not get into any trouble ” while in prison, he would be paroled after 15 years and spend only 5 years on parole. Rice indicates he has lived up to his end of the bargain and should, accordingly, be released from custody. He states that, had he known the People would not live up to their side of the bargain he would have requested a jury trial because he is not guilty of the offenses to which he pled.

In addition to not living up to his end of the plea agreement, Rice asserts the prosecutor failed to advise him of his *Boykin/Tahl* rights before taking his plea.<sup>3</sup> His plea was therefore unlawful. This is especially so because, according to Rice, there is no

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<sup>3</sup> *Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122.

factual basis for the plea. He again asserts he did not commit the crimes to which he pled.

In his prayer for relief, Rice asked the superior court to “issue [an] order to show cause to the Respondents why he should not be granted parole or . . . issue a [peremptory] writ in the first instance granting [him] parole as agreed upon on August 4, 1989 . . . .” In the alternative, Rice asserts the trial court should “vacate [his] conviction and allow him to withdraw his guilty plea.”

On October 22, 2008, the trial court considered Rice’s petition for writ of error coram nobis. In its minute order, the court states: “The defendant’s petition for writ of error coram nobis is read and considered. After examination of the court file and all proceedings contained therein, it is the finding of the court that the defendant’s contentions are without foundation. The petition is denied.”

Rice filed a notice of appeal from the trial court’s order on November 21, 2008.

This court appointed counsel to represent Rice on appeal on February 4, 2009.

### **CONTENTIONS**

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record. By notice filed March 24, 2009, the clerk of this court advised Rice to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

## **REVIEW ON APPEAL**

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

## **DISPOSITION**

The trial court's order denying the petition for writ of error coram nobis is affirmed.

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CROSKEY, J.

We concur:

KLEIN, P. J.

ALDRICH, J.